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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/218,085	12/22/1998	JAY S. WALKER	WD2-98-038	3571
22927	7590	11/24/2006	EXAMINER HAVAN, THU THAO	
WALKER DIGITAL 2 HIGH RIDGE PARK STAMFORD, CT 06905			ART UNIT 3691	PAPER NUMBER

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/218,085

Applicant(s)

WALKER ET AL.

Examiner

Thu Thao Havan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/18/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,23,26,28,29,49 and 53-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19,23,26,28,29,49 and 53-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/14/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Election/Restrictions

Applicant's election with traverse of 19, 23, 26, 28-29, 49, and 53-81 in the reply filed on September 18, 2006 is acknowledged. The traversal is on the ground(s) that restriction is not to be appropriate. This is not found persuasive because there are two groups with group I drawn to product identity being concealed at the time of offer, classified in class 705, subclass 15 and group II drawn to an upsell for a purchase at a point-of-sale terminal, classified in class 705, subclass 20.

Claims 82-83 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on September 18, 2006.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **19, 23, 26, 28-29, 49, and 53-81** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. (US 4,654,800) in view of Engstrom (US 5,780,133).

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Re claims **19, 49, 53, 55-56, 64, 72, 76, and 80-81**, Hayashi teaches an automatic sales machine for selling a product (col. 1, lines 13-19), the sales machine comprising:

a processor (fig. 1);

a memory connected to said processor storing a program to control the operation of said processor (figs. 10 and 1);

the processor operative with the program in the memory to:

maintain a database of product data (col. 3, lines 18-34; figs. 2-3), including normal price data and minimum acceptable price data for each of a plurality of products (col. 7, line 40 to col. 8, line 42; fig. 2; Discount prices correspond to the minimum acceptable price);

identify a monetary value available for purchasing a product (col. 12, lines 37-68);

select a product from among the plurality of products based on the monetary value and the minimum acceptable price data (col. 14, lines 11-68);

output via an output device an offer of the product to a consumer (figs. 1 and 13 (product dispenser));

determine whether the consumer accepts the offer (col. 9, lines 32-59); and

dispense the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer (fig. 1 (product dispenser)).

However, Hayashi does not explicitly teach the product identity being concealed at the time of offer. On the other hand, Engstrom discloses the product identity being concealed at the time of offer when he discloses a sheet which is covered to hide coupons

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and two offers with each coupon (col. 1, lines 40-51; col. 2, line 64 to col. 3, line 21; abstract).

Engstrom discloses an improved variable value retail coupon system where at least one coupon with at least two different offers is formed on the sheet and provisions are made to hide the coupon. He hides the offers so that the user does not know the value of the offer he is saving or destroying before he opens the system. Thus, it would have been obvious to one of ordinary skill in the art to conceal the product at the time of offer when hiding an offer such as a coupon from the customer so that the customer does not know the value of the offer as discloses in Engstrom.

Re claims **23, 54, 59-60, 68-69, 73-75, and 77-79**, Hayashi teaches processor is further operative with the program in the memory to select a combination of products (col. 12, lines 37-68).

Re claims **26 and 57-58**, Hayashi teaches processor is further operative with the program in the memory to determine whether the monetary value is at least as great as the lowest minimum acceptable price, and to offer the product performed only upon determining that the monetary value is at least as great as the lowest minimum acceptable price (col. 7, line 40 to col. 8, line 42).

Re claims **28, 61, 65-67, and 71**, Hayashi teaches databases further includes expiration data for each of the plurality of products and wherein the processor is further operative with the program in the memory to select the product based on the expiration data (col. 19, lines 18-35).

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Re claims **29, 62-63, 67, and 70**, Hayashi teaches profitability data for each of the plurality of products and wherein the processor is further operative with the program in the memory to select the product based on the profitability data (col. 16, lines 30-52).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct-uspto.gov/>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).


Thu Thao Havan
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11/20/06